

HENRY FINNEGASS.

JULY 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McDONALD, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 9936.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 9936) entitled "A bill to correct the military record of Henry Finnegass," report the same back to the House with the recommendation that it do pass when amended by adding:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

Henry Finnegass, whose military record is sought to be corrected by this bill, was summarily dismissed from the service, without court-martial or other trial, on September 12, 1863, for the alleged offense of "disobeying orders of his commanding officer upon the field of battle at Port Hudson, on the 27th day of May, 1863." Mr. Finnegass was at that time lieutenant-colonel of the Third Regiment of Louisiana Native Guards, having been mustered into the service as major of that regiment at New Orleans, La., on November 26, 1862, and subsequently promoted to the position of lieutenant-colonel on February 23, 1863. Prior to his appointment as major of this regiment he had served two previous terms of enlistment in the United States Volunteer Army, receiving honorable discharges from both of such enlistments. The record of his several enlistments, service, and discharges, including the proceedings had upon and subsequent to the dishonorable dismissal sought to be corrected by this bill, is given from the records of the War Department in the following statement of the Chief of the Record and Pension Office:

The records show that Harry Finnegass was enrolled April 25 and mustered into service May 11, 1861, as first lieutenant of Company E, Third Connecticut Infantry Volunteers, to serve three months, and that he was mustered out and honorably discharged the service with his company August 12, 1861.

The records further show that Henry Finnegass was enrolled September 9, 1861, as first lieutenant of Company K, Ninth Regiment Connecticut Infantry Volunteers, to serve three years. The records further show that he was not recognized as of this grade, on the ground that no command existed for him; that he rendered little or no service, and that he was not mustered in or paid as of said grade, company, or regiment. He was transferred to Company H, Thirtieth Massachusetts Infantry Volunteers, in special order of Major-General Butler, at Lowell, Mass., January 1, 1862, and he was mustered out of service with that company, March 26, 1862, with remark opposite his name "Not commissioned."

He was mustered into service as major of the Third Regiment of Louisiana Native Guards (subsequently known as the Seventy-fifth United States Colored Troops) at New Orleans, La., November 26, 1862. He was mustered in as lieutenant-colonel to date from February 23, 1863. He was dishonorably dismissed the service in Special

Orders, No. 228, paragraph 5, Headquarters Department of the Gulf, September 12, 1863, for "disobeying orders of his commanding officer upon the field of battle at Port Hudson on the 27th day of May, 1863." The medical records afford no information in this case.

On October 30, 1863, Lieutenant-Colonel Finnegan, in appealing to the Secretary of War for a review of his case, and in submitting testimonials as to his character and bravery, made the following statements:

"Having been dismissed the service of the United States without any hearing or trial or any opportunity of defense, I have the honor respectfully to ask that such action may be taken for a review of my case as will give me an opportunity to be heard.

"I entered the service at the commencement of the rebellion and was engaged in the first battle of Manassas, and from thence hitherto have continued in the service, and was engaged in the attack on Port Hudson, on the 27th of May last, as lieutenant-colonel of the Third Regiment Native Guards (colored).

"My conduct on that as well as on previous occasions is manifested in the documents I have the honor to submit herewith. Entering into the organization of colored troops at the early day I did, together with my conduct as testified to by the documents submitted, I am persuaded the Government will be willing to accord me an opportunity to defend myself against any charges, and not permit an officer who has tried to be true and faithful to be dismissed in so summary and ex parte a manner."

A testimonial of Edward Harland, colonel of the Eighth Regiment Connecticut Volunteers, dated Hartford, October 14, 1861, is as follows:

"This may certify that I am acquainted with Lieut. Harry Finnegan, and was with him in the Third Regiment Connecticut Volunteers; that he was a good soldier and endeavored faithfully to perform his duty both in the camp and on the field. I saw him at the battle of Bull Run, and he there acted the part of a brave man."

A testimonial of Lieutenant-Colonel Bassett and 25 other commissioned officers of the First and Third Regiments United States Colored Infantry, is as follows:

"We the undersigned, commissioned officers of the First and Third Regiments Infantry, Corps d'Afrique, certify that we witnessed the conduct of Lieut. Col. Henry Finnegan, of the Third Regiment Infantry, Corps d'Afrique, at the assault on the rebel works at Port Hudson, La., on the 27th of May, 1863, and that he behaved with gallantry and acted the part of a brave man."

A testimonial of G. F. Shepley, brigadier-general and military governor of Louisiana, dated September 28, 1863, is as follows:

"COLONEL: In reply to your inquiry I have no hesitation in stating that when you served under my command at Ship Island and afterwards when I was military commandant of the forces in New Orleans and Algiers your conduct as an officer was in all respects satisfactory, and that you were diligent and faithful in the discharge of your duty."

A testimonial of Maj. Gen. Benjamin F. Butler, dated Lowell, Mass., October 16, 1863, is as follows:

DEAR SIR: Lieut. Col. Henry Finnegan has been known to me many years. No man's reputation for courage and energy stood higher than his before the war, and it had been tested.

At New Orleans he behaved with the most determined bravery in making an arrest of a most noted ruffian, "Red Bill," who, charged with seven murders, had hid himself in a swamp, where Finnegan went after him alone. For his bravery, fidelity, and good conduct I promoted him to a lieutenant-colonelcy of a colored regiment.

He has been dismissed from that command without trial, without a hearing, without a court, without a right, as I believe.

I would trust my life to his courage sooner than to any man I know.

Pray give him a hearing and I will answer for it that he will show the same courage that he did at Bull Run, at Biloxi, at Ponchatoula, under General Strong, who speaks of Finnegan in the highest terms in his official report.

HON. E. M. STANTON,
Secretary of War.

The testimonials above quoted were referred to the commanding general of the Corps d'Afrique for report, and were returned by him with indorsement as follows:

"I inclose copy of report of Colonel Nelson, commanding the regiment of which Lieutenant-Colonel Finnegan was an officer, just returned to me. I am unable to obtain a copy of the charges preferred against Lieutenant-Colonel Finnegan by Colonel Nelson, the said charges having been sent to Department headquarters. But these charges were of the gravest character, and I think could have been sustained. Colonel Nelson, however, had left the Department before the accused could be brought to trial. The report of Colonel Nelson shows conclusively that Lieutenant-Colonel Finnegan was not an officer to be retained in service. Moreover, the condition of the regiment, as to drill, instruction, discipline, condition of books

and papers, was disgraceful. No officer who was fit to hold a field officer's commission would have remained in such a regiment consistently with what was due to himself and the service unless he was at least allowed to do something to remedy the existing state of things. There appears to have been no attempt on the part of the field officers of the regiment to correct these evils. It appears that Lieutenant-Colonel Finnegass on more than one occasion addressed his commanding officer in language which was not only disrespectful but unbecoming an officer and a gentleman. The regiment under its new commanders would hardly be recognized as the same regiment. Finally, I am of the opinion that Lieutenant-Colonel Finnegass could hardly pass an examination for the commission of first lieutenant."

Thereupon, so much of Special Orders, No. 228, Department of the Gulf, hereinbefore referred to, as dishonorably dismissed this officer, was approved, in Special Orders, No. 122, paragraph 9, March 19, 1864, from this Department.

Respectfully submitted.

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,
War Department, May 4, 1898.

The SECRETARY OF WAR.

It will be observed that Lieutenant-Colonel Finnegass was dismissed summarily, upon the complaint of his commanding officer, Colonel Nelson, stating that he had disobeyed orders on the field of battle at Port Hudson; that Colonel Finnegass denied the charges and asked for a review and trial of his case, with an opportunity to him to be heard in his defense. In support of his application for a review and trial, with an opportunity to be heard in his defense, Lieutenant-Colonel Finnegass submitted very strong testimonials from officers of the United States Army, several of them men high in authority and command, showing that in his several offices and terms of service, commencing with the battle of Bull Run, he had been a brave and efficient officer. As against the charge of Colonel Nelson concerning his conduct at the battle of Port Hudson, he presented a statement signed by Lieutenant-Colonel Bassett and twenty-five other commissioned officers of the First and Third regiments of United States Colored Infantry engaged in that battle, and having an opportunity to observe his conduct, and who state in their certificate that they did witness

the conduct of Lieut. Col. Henry Finnegass, of the Third Regiment Infantry, Corps d'Afrique, at the assault on the rebel works at Port Hudson, La., on the 27th of May, 1863, and that he behaved with gallantry and acted the part of a brave man.

Brigadier-General Shepley's certificate, dated September 28, 1863, shows that Lieutenant-Colonel Finnegass, while serving under his command, conducted himself as a diligent and faithful officer, and that his conduct as an officer was in all respects satisfactory. Maj. Gen. B. F. Butler, under whom Lieutenant-Colonel Finnegass served, in a letter to Hon. E. M. Stanton, Secretary of War, dated October 16, 1863, gives to Lieutenant-Colonel Finnegass as high a character for fidelity and soldierly qualities as could be given to any officer, and in the course of his letter to the Secretary of War declared that Lieutenant-Colonel Finnegass had been "dismissed from that command without trial, without a hearing, without a court, without right as I believe." He further says: "I would trust my life to his courage sooner than to any man I know."

It does seem to us that a soldier and officer having such a record, covering more than two years of active service during the rebellion, was entitled to a trial and should not have been dismissed from the service upon the unsupported complaint of his colonel.

As the record shows, the request of Lieutenant-Colonel Finnegass for a trial and an opportunity to be heard was referred by the Secretary of War to the general commanding the Corps d'Afrique for report.

The commanding general advised that Lieutenant-Colonel Finnegass's petition for a trial be denied upon grounds which, in our opinion, did not justify such summary treatment. It appears from the commanding general's report that it was not based upon an examination of the charges preferred by Colonel Nelson against Lieutenant-Colonel Finnegass. On the contrary, the general in his report stated: "I am unable to obtain a copy of the charges preferred against Lieutenant-Colonel Finnegass by Colonel Nelson." As a reason for refusing to recommend that Lieutenant-Colonel Finnegass's prayer for a trial and opportunity to be heard be denied, the general stated that "Colonel Nelson, however, had left the Department before the accused could be brought to a trial." As a further reason for denying a trial to Lieutenant-Colonel Finnegass, he says:

Moreover, the condition of the regiment as to drill, instruction, discipline, condition of books and papers, was disgraceful. No officer who was fit to hold a field officer's commission would have remained in such a regiment consistently with what was due to himself and the service unless he was at least allowed to do something to remedy the existing state of things. There appears to have been no attempt on the part of the field officers of the regiment to correct these evils.

The fact that Colonel Nelson had left the department pending the consideration of Lieutenant-Colonel Finnegass's appeal for a trial was not a sufficient reason for refusing to give him an opportunity to be heard. The condition of the regiment as to drill, instruction, discipline, condition of books and papers, if discreditable to Lieutenant-Colonel Finnegass, was directly chargeable to the fault of Colonel Nelson, his commanding officer, and afforded no justification for the refusal to grant a trial to Lieutenant-Colonel Finnegass. Indeed, considering the previous record of Lieutenant-Colonel Finnegass as a soldier and officer, and considering the condition of the regiment as recorded by the commanding general, there is deep significance in the statement that Colonel Finnegass had on more than one occasion spoken disrespectfully to his commanding officer. It is quite probable that the occasions of the disrespectful language on the part of Lieutenant-Colonel Finnegass to Colonel Nelson was Lieutenant-Colonel Finnegass's protests against the conduct of his colonel in keeping the regiment in a condition which the commanding general pronounced to have been disgraceful, and of which he says—

No officer who was fit to hold a field officer's commission would have remained in such a regiment consistently with what was due to himself and the service unless he was at least allowed to do something to remedy the existing state of things.

All this, in connection with the fact that Colonel Nelson so shortly after the battle of Port Hudson was relieved of his command, and the unqualified certificate of Lieutenant-Colonel Bassett and twenty-five other commissioned officers who served in that battle with and witnessed the conduct of Lieut. Col. Henry Finnegass at the assault on the rebel works, declaring "that he behaved with gallantry and acted the part of a brave man," entitled him to the trial which he requested, and, in our opinion, more than counterbalanced the unsubstantiated statement of Colonel Nelson upon which he was summarily dismissed from the service.

We believe that the interests of justice require the correction of the military record of this gallant officer and that a certificate of honorable discharge, to date from the 12th day of September, 1863—the date of the approval of his dismissal from the service—should be issued in his case.